IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINETH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 17853 of 2004

Between:

V.Anandha Kumar, S/o Ambanna,
Wanaparthy Bus Depot, Mahabubnagar District

... PETITIONER

AND

1 The Depot Manager, APSRTC, Wanaparthy Bus Depot, Mahabubnagar District
2 The Regional Manager, APSRTC Mahabubnagar District

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or Order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in imposing the punishment of deferment of increment for a period of one year (subsequently modified as six months) which shall have an effect on the petitioners future increments as bad, arbitrary, illegal, against the principles of natural justice and contrary to the judgments of this court by setting aside the Proc.No.02/62(69)/94.WNP dated 18-11-1994 of R1 herein and consequentially Proc. dated 28/7/2004 of R2 herein and consequently direct the respondent to fix the scale of the petitioner by adding the deferred increments to the petitioners pay scale with all consequential benefits.

Counsel for the Petitioner:MR.P.VENKATESWAR RAO

Counsel for the Respondent No.: MR.P.VINAYAKA SWAMY (SC FOR APSRTC)

The Court at the admission stage made the following:

ORAL ORDER:

1. The petitioner is working as a Conductor in the second respondent Corporation. He was issued a Charge Memo on 7-9-1994 and after receiving the explanation of the petitioner, the final orders were passed on 18-11-1994 imposing the penalty of reduction of one increment with cumulative effect. The petitioner contends that he preferred an appeal and also a revision petition against the order dated 18-11-1994, but they went against him. The petitioner is questioning the above order on the ground that though there is reduction of one increment with cumulative effect, which is a major penalty, the respondents have passed the said order without conducting any enquiry as required under the rules. The learned counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

2. The petitioner after receiving the adverse orders slept over the matter for a period of 10 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in **Kulwant Singh Gill** (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is reduced to one increment without cumulative effect.

3. In the result, the order dated 18-11-1994 is modified and the punishment imposed on the petitioner is reduced to one increment without cumulative effect. However, the petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the order dated 18-11-1994 till the date of this order. But, he is entitled to get increments on notional calculation after completion of the punishment period i.e., from 18-11-1995 or from the date on which the increment fell due immediately after completion of the punishment period till the date of

this order. The writ petition is accordingly disposed of.

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(Dr.G.Yethirajulu, J)

29th November 2004.

Note:

Issue C.C. in one week.

(By order)

svs

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Depot Manager, APSRTC, Wanaparthy Bus Depot, Mahabubnagar District
2. The Regional Manager, APSRTC, Mahabubnagar District
3. Mr.P.Venkateswara Rao, Advocate (OPUC)
4. Mr.P.Vinayakaswamy, Advocate (OPUC)
5. 2 CD copies.

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